

FILE COPY

STATE OF WISCONSIN BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST

ROBERTA M. KALMANSON, RN,
RESPONDENT

FINAL DECISION AND ORDER
97 NUR033

LS97071117 NUR

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Roberta M. Kalmanson, RN
5500 Prytania St.
Box 539
New Orleans, LA 70115-4237

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Roberta M. Kalmanson, RN (D.O.B. 04/05/49) is duly licensed as a registered nurse in the state of Wisconsin (license #84236). This license was first granted on March 25, 1983.
2. Ms. Kalmanson's most recent address on file with the Wisconsin Board of Nursing is 1810 Adams St., New Orleans, LA 70118. Ms. Kalmanson's return address on the priority mail package which contained the signed Stipulation attached is 5500 Prytania St., Box 539, New Orleans, LA 70115-4237

3. On October 18, 1996, the Louisiana Board of Registered Nursing issued an order which imposed discipline upon the Louisiana nursing license of Ms. Kalmanson. A true and correct copy of the Louisiana Consent Order are attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

4. In resolution of this matter, Ms. Kalmanson consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to sec. 441.07, Stats. and is authorized to enter into the attached Stipulation and Order, pursuant to sec. 227.44(5), Stats.
2. The conduct described in paragraph 3, above, constitutes a violation of Wisconsin Administrative Code §N7.04(7) and (15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of Roberta M. Kalmanson (license # 84236) to practice as a registered nurse in the State of Wisconsin is **SUSPENDED** for an **INDEFINITE PERIOD** of time.
2. At any time following full and successful completion by Ms. Kalmanson of the terms and conditions imposed against her nursing license in the state of Louisiana, Ms. Kalmanson may petition the Board for permission to practice within this state.
 - a. In conjunction with a petition by Ms. Kalmanson, the Board shall require current documentation of the status of Ms. Kalmanson's compliance with the terms and conditions imposed against her Louisiana license to practice.
 - b. In the exercise of its discretion, the Board in addition may require a personal appearance by Ms. Kalmanson to answer questions in conjunction with her petition.
 - c. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42. *The Board may in its sole discretion determine whether, and under what terms and conditions, Ms. Kalmanson may resume the practice of nursing in the state of Wisconsin.*

3. Violation of any of the terms of this Order or the conditions imposed as a result of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Ms. Kalmanson's license; the Board in its discretion may in the alternative impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

4. This Order shall become effective on the date of its signing.

BOARD OF NURSING

By


A Member of the Board

11 July 97
Date

Louisiana State Board of Nursing

Suite 501
3510 N Causeway Blvd.
Metairie, LA 70002
Telephone (504) 838-5332
Facsimile (504) 838-5349

DATE: 2-14-97

TO: Pam Mickelson, Program Assistant
Bureau of Health Service Professions
Board of Nursing
State of Wisconsin, Dept. of Regulations & Licensing
P.O. Box 8935
Madison, Wisconsin 53708

STATE OF LOUISIANA

JEFFERSON PARISH

I, Barbara L. Morvant, Executive Director of the Louisiana Board of Nursing, do hereby certify that I am Custodian of Records of the Board of Nursing and that the copy of the records in the matter of Roberta M. Kalmanson, RN, is a true and correct copy of said documents as they appear among the files and records of this office.

WITNESS my hand and seal of the Board of Nursing this the 2-14-97.

LOUISIANA BOARD OF NURSING

Barbara L. Morvant, MN, RN
Executive Director

BOARD SEAL

By Thania S. Elliott
Thania S. Elliott, RN, MSH, JD
Nursing Consultant for Compliance

Exhibit A

LOUISIANA STATE BOARD OF NURSING

NEW ORLEANS, LOUISIANA

IN THE MATTER OF:

Roberta M. Kalmanson
1810 Adams Street
New Orleans, LA 70118
Respondent

•
•
•
CONSENT ORDER

TERMS AGREED TO BY LICENSEE

I, Roberta M. Kalmanson, voluntarily agree to sign and have witnessed terms of agreement for the purpose of avoiding a formal hearing with the Louisiana State Board of Nursing.

I, Roberta M. Kalmanson, do say that I freely, knowingly and voluntarily enter into this agreement. I understand that I have a right to a hearing in this matter and I freely waive such right. I understand that I have a right to legal counsel prior to entering into this agreement.

I acknowledge that the Louisiana State Board of Nursing makes the following FINDINGS OF FACT:

1. That on October 5, 1983 Respondent was licensed in Louisiana as a registered nurse by endorsement from Wisconsin.
2. That from January, 1993 until July, 1996, Respondent was employed as a registered nurse at the Department of Veterans Affairs Medical Center in New Orleans, LA:
 - a. On or about May 26, 1994, while functioning as a scrub nurse in surgery, she failed to acknowledge an incorrect sponge count during wound closure after a patient's surgery. A post-operative chest x-ray revealed the presence of a laparotomy sponge. The patient was returned to surgery for removal of the sponge.
 - b. On or about June 7, 1996, while functioning as a staff nurse in the SICU, she failed to initiate cardiac monitor alarms on her assigned patient. The patient was later found to be asystolic and unresponsive and required cardiopulmonary resuscitation. There was no recorded alarm warning of the asystolic/bradycardic event.
 - c. That on July 2, 1996, Respondent resigned from the Department of Veterans Affairs Medical Center prior to issuance of separation action.

To facilitate submission of this Consent Order, I do not offer any defense to the FINDINGS OF FACT. I admit to the allegations and agree that there is sufficient evidence upon which to predicate a finding of violation of the provisions of L.R.S. 37:921. I agree that the Board has jurisdiction of this matter pursuant to L.R.S. 37:921. I specifically waive my right to contest these findings in any subsequent proceedings before the Board. I understand that this Consent Order shall constitute a public record and is disciplinary action by the Board.

I further acknowledge and attest that I have had no previous disciplinary action in any jurisdiction and that I have cooperated with all aspects of this investigation and consent conference.

In order to avoid further administrative proceedings, I, Roberta M. Kalmanson, hereby consent to accept and abide by the following ORDER of the Board: That Respondent's license be suspended for a minimum of six (6) months, subject to the right to petition for reinstatement, which reinstatement will be granted provided the Respondent complies with all of the following stipulations and the Board has received no other complaints against said Respondent.

FURTHER, that prior to reinstatement, Respondent must meet the following stipulations. She shall:

1. Submit written evidence of completion of a minimum of 20 hours of LSBN staff approved continuing education hours to include the areas of Physical Assessment and Legal Accountability. If she is unable to comply with this requirement within the 90 days, she must immediately notify the Louisiana State Board of Nursing of this inability, the reasons therefor, and request a reasonable extension of this time.

LOUISIANA STATE BOARD OF NURSING

NEW ORLEANS, LOUISIANA

IN THE MATTER OF:

Roberta M. Kalmanson
1810 Adams Street
New Orleans, LA 70118
Respondent

CONSENT ORDER

TERMS AGREED TO BY LICENSEE (continued)

2. Not have any misconduct, criminal violations or convictions, or violations of any health care regulations reported to the Board related to this or any other incidents.
3. Submit a fine of \$200.00 to the Louisiana State Board of Nursing.
4. Failure to comply with the above stipulations, receipt of an unfavorable report, or non-receipt of reports on or before the date due shall result in the immediate revocation of this registrant's license.

I agree that if I request reinstatement of my license, I must demonstrate, to the satisfaction of the Board, that I pose no danger to the practice of nursing or to the public and that I can safely and competently perform the duties of a registered nurse. The Board, in reinstating my license, will require a period of probation, along with supportive conditions or stipulations, to ensure that patients and the public are protected.

I further acknowledge that the only promise or representations made to me by the Board or its representatives are that upon receipt of proper proof and evidence of my rehabilitation, the Board will give due consideration to an application for reinstatement of license at such time as is allowed by law. I fully understand that as a condition for reinstatement, I must demonstrate to the satisfaction of the Board that I am capable of safely and competently resuming the practice of nursing in accordance with the laws of the state of Louisiana.

I, Roberta M. Kalmanson, understand that this agreement is effective immediately upon signature of the Executive Director and will become an ORDER of the Board. It is also understood that this agreement does not preclude the Board of Nursing from requiring a formal hearing of my case. I further understand that should the Consent Order not be accepted by the Board, I agree that presentation to and consideration of the Consent Order, the documentary evidence and information by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding this registrant.

Dated this 8th day of OCTOBER, 1996.

Sharon J. Elliott
Witness

Joe M. Stewart
Witness

Roberta M. Kalmanson
Roberta M. Kalmanson

Approved by and effective date: October 8, 1996

LOUISIANA STATE BOARD OF NURSING

Sign Date: October 17, 1996

Barbara L. Morvant, MN, RN
Barbara L. Morvant, MN, RN
Executive Director

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
ROBERTA M. KALMANSON, RN, :
RESPONDENT :

STIPULATION
97 NUR 133

It is hereby stipulated between Roberta M. Kalmanson, personally on her own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:


1. This Stipulation is entered into as a result of a pending investigation of Ms. Kalmanson's licensure by the Division of Enforcement. Ms. Kalmanson consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Kalmanson understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify her; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Ms. Kalmanson is aware of her right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.
4. Ms. Kalmanson agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Board of Nursing assigned as an advisor in this investigation may appear

before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Ms. Kalmanson in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


Roberta M. Kalmanson, RN

May 15 1997
Date


Steven M. Gloe, Attorney
Division of Enforcement

5.26.97
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

Roberta M. Kalmanson, RN,

AFFIDAVIT OF MAILING

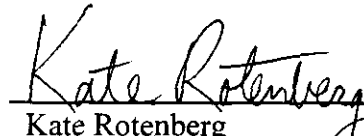
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On July 15, 1997, I served the Final Decision and Order dated July 11, 1997, LS97071117NUR, upon the Respondent Roberta M. Kalmanson, RN by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 157 342.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:


Roberta M. Kalmanson, RN
5500 Prytania Street
Box 539
New Orleans LA 70115-4237



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 15th day of July, 1997.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

July 15, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)